



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,757	12/29/2000	Shmuel Shaffer	062891.0418	5060

7590 09/24/2003

Baker Botts L.L.P.
2001 Ross Avenue
Dallas, TX 75201-2980

EXAMINER

CHOW, MING

ART UNIT	PAPER NUMBER
----------	--------------

2645

8

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,757

Applicant(s)

SHAFFER ET AL.

Examiner

Ming Chow

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 2, 11, 13-15, 24, 26-28, 37 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Dans (US: 6195417).

For claims 1, 14 and 27, Dans teaches a messaging system (“telephone accessible bank information systems” of Dans; column 2 line 42). Dans teaches on column 4 line 61-63 a request for connection is received by a main computer (the claimed “controller”). Dans teaches on column 3 line 5-8 incoming transactions arrive from callers using touch tone telephones, and a system operator (claimed “a user”) who enters them directly. Dans also teaches on column 12

Art Unit: 2645

line 8-14 when a busy signal is received (reads on the claimed “determining....the messaging system is available”) the request is re-queued (the claimed “queuing the request”).

Regarding claims 2, 15 and 28, Dans teaches on column 10 line 59-62 when the line manager identifies the telephone line resource it dials the bank information system and sends the DTMF tones to activate the bank information system’s menu (reads on the claimed “connecting the user with the messaging system if the messaging system is initially available”).

Regarding claims 11, 24 and 37, Dans teaches on column 11 line 37 to column 12 line 14 queuing the request based on a time (“non-high priority time window” of Dans).

Regarding claims 13, 26 and 39, Dans teaches on column 11 line 53-54. The “requests (in a queue) with priority greater than X” reads on the claimed “primary position in a queue”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2645

2. Claims 3, 16 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dans as applied to claim 1 above, and in view of Oliva (US: 6459681). Dans failed to teach “determining a class of service.....based on the CoS”. However, Oliva teaches on column 8 line 25 queuing based on CoS. It is inherent that the CoS must be determined for the queuing to be based on. It would have been obvious to one skilled at the time the invention was made to modify Dans to have the “determining a class of service.....based on the CoS” as taught by Oliva such that the modified system of Dans would be able to support the CoS queuing to the system users.

3. Claims 4-6, 17-19, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dans and Oliva as applied to claim 3 above, and in view of Tam et al (US: 6115751) and Malik (US: 6519333).

Regarding claims 4, 17, 30, Dans and Oliva failed to teach “the CoS includes a priority”. However, Tam et al teach on column 4 line 58-60 the CoS includes a priority level. Dans and Oliva failed to teach “a priority associated with the user”. However, Malik teaches on column 4 line 58-60 the COS indicating the priority for subscribers. It would have been obvious to one skilled at the time the invention was made to modify Dans and Oliva to have the “the CoS includes a priority” and “a priority associated with the user” as taught by Tam et al and Malik such that the modified system of Dans and Oliva would be able to support the CoS includes a priority and the priority associated with the user to the system users.

Art Unit: 2645

Regarding claims 5, 18, 31, the modified system of Dans in view of Oliva, Tam et al and Malik as stated in claim 4 above failed to teach “the priority.....the user”. However, Malik teaches on column 5 line 5-8 the subscriber’s telephone number (claimed “an identification number”) is used to determine the CoS. It would have been obvious to one skilled at the time the invention was made to modify Dans, Oliva, Tam et al, Malik to have the “the priority.....the user” as taught by Malik such that the modified system of Dans, Oliva, Tam et al, Malik would be able to support the priority established based on the user’s identification number to the system users.

Regarding claims 6, 19 and 32, Dans teaches on column 3 line 59-63 the system (claimed “access controller”) determines (reads on claimed “determining.....at the access controller”) the telephone numbers (status) received from the feed application.

Regarding “the identification.....the user”, the rejection as stated in claim 5 above apply.

4. Claims 7, 20 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dans and Oliva as applied to claim 3 above, and in view of Tam et al (US: 6115751) and Garland et al (US: 6493445). Dans and Oliva failed to teach “the CoS includes a priority”. However, Tam et al teach on column 4 line 58-60 the CoS includes a priority level. Dans and Oliva failed to teach the CoS includes a priority associated with a called party. However, Garland et al teach on column 4 line 6-7 class of service of the called party. It would have been obvious to one skilled at the time the invention was made to modify Dans and Oliva to have the “the CoS includes a priority” and “a priority associated with a called party” as taught by Tam et al and Garland et al such that the

Art Unit: 2645

modified system of Dans and Oliva would be able to support the called party's CoS to the system users.

5. Claims 8, 21 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dans, Oliva, Tam et al, Garland et al as applied to claim 7 above, and in view of Malik (US: 6519333). Dans, Oliva, Tam et al, Garland et al failed to teach "the priority.....the called party". However, Malik teaches on column 5 line 5-8 the subscriber's telephone number (claimed "an identification number") is used to determine the CoS. It would have been obvious to one skilled at the time the invention was made to modify Dans, Oliva, Tam et al, Garland et al to have the "the priority.....the called party" as taught by Malik such that the modified system of Dans, Oliva, Tam et al, Garland et al would be able to support the priority to the system users.

6. Claims 9, 10, 22, 23, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dans and Oliva as applied to claim 3 above, and in view of Tam et al (US: 6115751) and Ash et al (US: 6590867).

Regarding claims 9, 22 and 35, Dans and Oliva failed to teach "the CoS includes a priority". However, Tam et al teach on column 4 line 58-60 the CoS includes a priority level.

Dans and Oliva failed to teach "a priority.....for connection". However, Ash et al teach on Abstract – CoS includes a priority associated with connection request..

It would have been obvious to one skilled at the time the invention was made to modify Dans and Oliva to have the "the CoS includes a priority" and "a priority.....for connection" as

Art Unit: 2645

taught by Tam et al and Ash et al such that the modified system of Dans and Oliva would be able to support the CoS and priority to the system users.

Regarding claims 10, 23 and 36, Dans teaches on column 2 line 41-67 a caller calls (claimed “request for connection”) the bank information system to review a message.

7. Claims 12, 25 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dans as applied to claim 1 above, and in view of Lindholm et al (US: 6512825). Dans failed to teach the messaging system comprises a voicemail system. However, Lindholm et al teach on column 2 line 14 voice mail system. It would have been obvious to one skilled at the time the invention was made to modify Dans to have the messaging system comprises a voicemail system as taught by Lindholm et al such that the modified system of Dans would be able to support the voicemail system to the system users.

8. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dans, and in view of Pandharipande (US: 6529500). The rejections for claims 1 and 2 as stated above apply. Dans failed to teach authenticating the user for access. However, Pandharipande teaches on column 1 line 16-19 a password (reads on the claimed “authenticating”) is required for accessing the voicemail. It would have been obvious to one skilled at the time the invention was made to modify Dans to have the authenticating the user for access as taught by Pandharipande such that the modified system of Dans would be able to support the authenticating to the system users.

Art Unit: 2645

9. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dans and Pandharipande as stated in claim 40 above, and in view of Oliva (US: 6459681). Dans and Pandharipande failed to teach “queuing.....the connection”. However, Oliva teaches on column 8 line 25 queuing based on CoS. It would have been obvious to one skilled at the time the invention was made to modify Dans and Pandharipande to have the “queuing.....the connection” as taught by Oliva such that the modified system of Dans and Pandharipande would be able to support the CoS queuing to the system users.

10. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dans and Pandharipande as stated in claim 40 above, and in view of Burg et al (US: 6456699). Dans and Pandharipande failed to teach “transferring a login token.....messaging system”. However, Burg et al teach on column 3 line 31-32 the IVR system verifies the password for the voice response system. It is inherent that the IVR must transfer a login token to the messaging system (the “voice response system” of Burg et al) so that the messaging system does not need to authenticate the user again (see line 9-12 page 21 of specifications regarding the limitation disclosure). It would have been obvious to one skilled at the time the invention was made to modify Dans and Pandharipande to have the “transferring a login token.....messaging system” as taught by Burg et al such that the modified system of Dans and Pandharipande would be able to support the transferring a login token to the system users.

Response to Arguments

11. Applicant's arguments filed on 7/7/03 have been fully considered but they are not persuasive.

- i) Applicant argues, on page 10, regarding claim 1. Dans teaches on column 3 line 8 a system operator enters the transactions. The "system operator" of Dans is the claimed "a user". Dans teaches on column 3 line 1-2 the transactions are for checking to be verified. When the system operator enters the transaction the system operator request the connection to the messaging system for information as requested.
- ii) Applicant argues, on page 11, regarding claim 3. Applicant stressed that "claim 3 refers to 'queuing the request based on the CoS'". The Examiner had stated clearly, for this rejection, Oliva teaches on column 8 line 25 queuing based on CoS. Further, by knowing that Oliva teaches "queuing the request based on the CoS", we know it is inherent that the CoS must be determined (for the queuing to be based on). Oliva teaches "round robin queuing with class of service separation" (reads on claimed "queuing the request based on the CoS"). Without using the CoS as a separation of each request in the queue there is no way to differentiate the requests. Therefore, queuing the request is based on the CoS.
- iii) Applicant argues, on page 15, regarding claim 40. The prior art (Pandharipande) teaches the method of "authenticating the user for access" as stated above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (703) 305-4817. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or

Art Unit: 2645

proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to TC2600's Customer Service FAX Number 703-872-9314.

Patent Examiner

Art Unit 2645

Ming Chow



**FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800**

